

EXHIBIT 12

April 3, 2019 KDID Operation Permit Approval

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION



STEVE BULLOCK
GOVERNOR

DIRECTOR'S OFFICE (406) 444-2074
TELEFAX NUMBER (406) 444-2684

STATE OF MONTANA

WATER RESOURCES DIVISION (406) 444-6601
TELEFAX NUMBERS (406) 444-0533 / (406) 444-5918
<http://www.dnrc.mt.gov>

1424 9TH AVENUE
PO BOX 201601
HELENA, MONTANA 59620-1601

Wednesday, April 03, 2019

Tony Penfold
W.R. Grace and Company
C/O Stantec, Suite 1800 1560 Broadway
Denver, CO 80202

RE: Operation Permit Approval for Kootenai Development Impoundment Dam

Dear Mr. Penfold:

Enclosed is an approved operation permit for the Kootenai Development Impoundment Dam (KDID). The next formal five-year engineer's inspection must be completed by **November 8th, 2023** which is five years from your last inspection. Your operation permit expires 90 days later on **February 6, 2024**, allowing you time to get us a copy of the inspection report.

State law requires a formal engineers inspection at least once every five years. Failure to complete the inspection on time will result in a lapse of your operation permit.

PERMIT CONDITIONS

This permit has conditions tied to the approval:

Condition 1: Complete construction of the ***Construction Water Control Cofferdam.***
Due Date: 12/31/2019

Reason: The Construction Water Control Cofferdam discussed in the Hafferman Engineering January 2019 inspection report should provide robust risk reduction by preventing storm events from compromising the existing deficient spillways.

This activity will require a construction permit from our organization and must be designed and constructed under the oversight of a licensed engineer with experience in dam design and construction.

Condition 2: Continue monthly inspections and daily monitoring as discussed in your engineer's report.

Reason: The deficiencies noted at the KDID warrant increased inspection and attention.

Condition 3: Annually submit a report to us detailing the condition of the underdrain system, noting any additional deterioration. **Due Date: Annually by December 31.**

Reason: The underdrain system has been identified as a potential failure mode. Increased inspection and analysis is necessary until studies underway to evaluate rehabilitation options are completed.

Failure to meet operation permit conditions may result in a revocation of the permit.

RESPONSIBILITIES

You are responsible for meeting all detailed recommendations contained in your engineer's report. You are also responsible for updating your emergency action plan and emergency intervention plan annually.

Please note that renewal of the Operation Permit in five years is contingent upon the spillway being reconstructed and operational.

Sincerely,



Michele Lemieux, P.E.

Dam Safety Section Supervisor

C via email: John Tubbs, DNRC Director
 Steve Story, P.E. DNRC Water Operations Bureau Chief
 Kurt Hafferman, P.E. Hafferman Engineering
 Thomas Stoops, DEQ Superfund Bureau Chief
 Lisa DeWitt, DEQ Superfund project manager
 Dania Zinner, EPA Project Manager
 Mike Cirian EPA Project Manager
 William Pickens, Stantec
 Lincoln County DES

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
DAM SAFETY PROGRAM

This Certificate Verifies the Below Dam Has a Valid Operation Permit

Kootenai Development Impoundment Dam

Owner: W.R. Grace & Co.

Last Five Year Inspection Completed on: 11/08/2018

Next Five Year Inspection Due On or Before: 11/08/2023

Permit Expires On: 2/06/2024 (90 days after next inspection)

Note: This operation permit has Conditions tied to approval. Failure to meet Permit Conditions will result in revocation of the Operation Permit.

Michele Lemieux P.E. April 3rd 2019
APPROVED BY Date

Dam Safety Section Supervisor
Title

